



**THE NATIONAL COMPANY LAW TRIBUNAL
COURT VI, NEW DELHI**

I.A. 2942/2022

IN

Company Petition No. (IB) – 1374 (ND) /-2019

*Under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016 r/w Rule 11 of the National Company
Law Tribunal Rules, 2016 for modification of the order dated
09.06.2022 and passing of necessary directions for appointment
of liquidator.*

In the matter of:

M/s. Corporation Bank

.... Financial Creditor

VERSUS

M/s. Hydric Farms Inputs Ltd.

..... Corporate Debtor

In the matter of:

Mr. Aditya Agarwal

E-574, 2nd Floor, Gk-2, New Delhi

.... Applicant (RP)

Order Pronounced on: 02.09.2022

PATIBANDLA Digitally signed by
PATIBANDLA
SATYANARA SATYANARAYANA
YANA PRASAD
PRASAD Date: 2022.09.02
15:33:38 +05'30'

RAHUL Digitally signed by
RAHUL PRASAD
PRASAD BHATNAGAR
BHATNAGAR Date: 2022.09.02
16:04:37 +05'30'



Coram:

Shri. P.S.N. Prasad, Hon'ble Member (Judicial)

Shri. Rahul Bhatnagar, Hon'ble Member (Technical)

For the Applicant:

ORDER

PER- RAHUL BHATNAGAR , MEMBER (TECHNICAL)

1. The present Application has been filed by the Applicant/ Resolution Professional Mr. Aditya Agarwal under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 for modification of the order dated 09.06.2022 and passing of necessary directions for appointment of liquidator.

The Applicant has prayed for the following reliefs:

- Pass an order u/s 60(5)(c) of the Code directing appointment of a new Liquidator of the Corporate Debtor in light of circumstances mentioned in the application and thereby modify the Order dated 09.06.2022 to this limited effect;
- Pass any such other order/ direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of the case.

PATIBANDLA
SATYANARAY
ANA PRASAD

Digitally signed by
PATIBANDLA
SATYANARAYANA
PRASAD
Date: 2022.09.02
15:33:59 +05'30'

RAHUL
PRASAD
BHATNAGAR

Digitally signed by
RAHUL PRASAD
BHATNAGAR
Date: 2022.09.02
16:05:04 +05'30'



2. The brief facts as averred by the Applicant for filing the present Application are as follows:

- i. That the instant petition was filed by Corporation Bank (hereinafter referred to as "Financial Creditor") under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, claiming dues amounting to Rs. 13,53,12,053/- (Rupees Thirteen Crore Fifty-Three Lakhs Twelve Thousand and Fifty-Three Only) owed to the Financial Creditor by the Corporate Debtor.
- ii. Vide order dated 20.11.2019, this tribunal initiated the corporate insolvency resolution process and appointed Mr. Aditya Agarwal, the Applicant herein as the Interim Resolution Professional ("IRP") to carry out the functions mentioned under the Code.
- iii. That the Applicant had filed an I.A. 4955/2020, being an Application U/s 33(1) and 34 (3) of the Insolvency and Bankruptcy Code, 2016 ("Code") for passing an order requiring Corporate Debtor to be liquidated in the

PATIBANDLA
SATYANARAYANA
PRASAD

Digitally signed by PATIBANDLA
SATYANARAYANA PRASAD
Date: 2022.09.02 15:34:11 +05'30'

RAHUL PRASAD
BHATNAGAR

Digitally signed by RAHUL
PRASAD BHATNAGAR
Date: 2022.09.02 16:05:30
+05'30'



manner as laid down and issuance of necessary directions to the Directors/ Managers/ Officers/ Promoters of the Corporate Debtor to comply with the instructions of the applicant and/ or to provide the requisite information to the applicant in discharging his duties under the Code.

- iv. That this Tribunal passed its final order in the said application for liquidation on 09.06.2022 and allowed the said Application and appointed the Applicant herein as the liquidator of the Corporate Debtor.
- v. That during the pendency of the liquidation application, Insolvency and Bankruptcy Board of India (IBBI) issued a Show Cause Notice, dated 31.05.2022, under section 219 of the Code. The said Show Cause Notice was issued on the basis of imputations and allegations arising out of a separate CIRP proceeding of another Corporate Debtor, wherein the Applicant was the Resolution Professional. The adjudication of the said Show Cause Notice is *sub-judice* before IBBI.
- vi. That as per circular dated 23.04.2018 issued by IBBI an insolvency professional who has been issued a Show

PATIBANDLA
SATYANARAYA
NA PRASAD

Digitally signed by
PATIBANDLA
SATYANARAYANA PRASAD
Date: 2022.09.02 15:34:23
+05'30'

RAHUL
PRASAD
BHATNAGAR

Digitally signed by
RAHUL PRASAD
BHATNAGAR
Date: 2022.09.02
16:05:45 +05'30'



Cause Notice shall not accept any fresh assignment as interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee under the Code.

vii. That in view of the above circular, the Applicant seeks to withdraw his consent for being appointed as Liquidator of the Corporate Debtor and prays that a new Liquidator of the Corporate Debtor be appointed as per the Code.

3. The present I.A has been filed by the Applicant under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 for modification of the order dated 09.06.2022 and passing of necessary directions for appointment of liquidator.
4. The Insolvency and Bankruptcy Code, 2016 (Code) envisages that an insolvency professional may be appointed as interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee if no disciplinary proceeding is pending against him.
5. The circular dated 23.04.2018 issued by the IBBI states as follows:

PATIBANDLA
SATYANARAYANA
NA PRASAD

Digitally signed by
PATIBANDLA
SATYANARAYANA PRASAD
Date: 2022.09.02 15:34:37
+05'30'

RAHUL
PRASAD
BHATNAGAR

Digitally signed by
RAHUL PRASAD
BHATNAGAR
Date: 2022.09.02
16:05:57 +05'30'



3. *“A show cause notice is issued after application of mind to the material available on record or on consideration of the inspection or investigation report. The disciplinary committee disposes of the show cause notice by a reasoned order in adherence to principles of natural justice. The reasoned order carries the determination of contravention, if any, of the provisions of the Code, the rules and regulations, or guidelines, directions or orders issued by the Insolvency and Bankruptcy Board of India. Thus, a disciplinary proceeding commences with the issue of show cause notice and concludes with the disposal of show cause notice by a reasoned order.*

4. *It is, therefore, clarified that-*

(i) a disciplinary proceeding is considered as pending against an insolvency professional from the time he has been issued a show cause notice by the Insolvency and Bankruptcy Board of India till its disposal by the disciplinary committee; and

(ii) an insolvency professional who has been issued a show cause notice shall not accept any fresh assignment as

PATIBANDLA
SATYANARAY
ANA PRASAD

Digitally signed by
PATIBANDLA
SATYANARAYANA
PRASAD
Date: 2022.09.02
15:34:50 +05'30'

RAHUL
PRASAD
BHATNAGAR

Digitally signed by
RAHUL PRASAD
BHATNAGAR
Date: 2022.09.02
16:06:18 +05'30'



interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee under the Code.”

Therefore, in view of Show Cause Notice, dated 31.05.2022, under Section 219 of the Code issued by the IBBI to the Applicant and in view of the IBBI circular dated 23.04.2018, this Tribunal hereby removes the Applicant as the Liquidator of the Corporate Debtor in exercise of powers vested by Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 as the Liquidator has been barred from taking up any fresh assignment as interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee under the Code. Further, this Tribunal appoints Mr. Suman Kumar Verma having registration number IBBI/IPA-003/IP-N00342/2021-2022/13657 [Email Id- ipskverma@gmail.com; Mobile No. 9716633301] from the latest list provided by the IBBI for the period 01.07.2022-31.12.2022 as the liquidator in respect of the Corporate Debtor viz. M/s. Hydric Farms Inputs Ltd. The outgoing Liquidator / Applicant is directed to handover the charge to the newly appointed Liquidator within a period of 7 days from the date of this order. Order

PATIBANDLA
SATYANARAYANA
PRASAD

Digitally signed by PATIBANDLA
SATYANARAYANA PRASAD
Date: 2022.09.02 15:35:06 +05'30'

RAHUL
PRASAD
BHATNAGAR

Digitally signed by
RAHUL PRASAD
BHATNAGAR
Date: 2022.09.02
16:06:44 +05'30'



dated 09.06.2022 passed in I.A 4955/2020 stands modified to this effect.

6. Accordingly, I.A. 2942/2022 stands allowed. The Registry is directed to send a copy of this order to IBBI for its information and records.

Let a copy of order be served to parties.

RAHUL
PRASAD
BHATNAGAR

Digitally signed by
RAHUL PRASAD
BHATNAGAR
Date: 2022.09.02
16:07:01 +05'30'

(RAHUL BHATNAGAR)

MEMBER (TECHNICAL)

PATIBANDLA
SATYANARAY
ANA PRASAD

Digitally signed by
PATIBANDLA
SATYANARAYANA
PRASAD
Date: 2022.09.02
15:35:50 +05'30'

(P.S.N PRASAD)

MEMBER (JUDICIAL)